

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: 346 Lincoln Avenue Nominee Trust

Owner: Derek Alfama, 45 Camile Road, Webster, MA 01570

Date Application filed with the Town Clerk: August 24, 2005

Nature of request: Petitioner seeks a Special Permit, pursuant to Condition #10 of ZBA FY 99-0053 and Condition #16 of ZBA FY 2000-00028 and ZBA FY2004-00036, to operate a two-family dwelling.

Location of property: 346 Lincoln Avenue, (Map 11A, Parcel 19, R-G Zone)

Legal notice: Published in the Daily Hampshire Gazette on September 21 and 28, 2005, and sent to abutters on September 19, 2005.

Board members: Zina Tillona, Barbara Ford and Hilda Greenbaum

Submissions: The applicants submitted the following documents which are on file in the office of the Zoning Board of Appeals:

- A Management Plan dated August 16, 2005
- A Site Plan, revised 8/18/05, showing the property, the house location, plantings, fencing, parking, trash bins, concrete piers and a sign ("Resident Parking Only")
- Lease Agreements with current tenants, dated April 25, 2005, and May 20, 2005.
- A picture of the Parking sign to be installed in the front yard.

Site Visit: October 4, 2005

At the site visit the Board was met by Derek Alfama, the applicant, and Attorney Matt Massengill. The Board observed the following:

- The location of the property in a neighborhood of older homes and adjacent to one of the University of Massachusetts parking lots.
- The sign in front of the house, restricting parking to residents.
- The required parking stickers on the cars.
- The fact that only 6 cars were parked in the parking lot, in compliance with previous Special Permits.
- Three trees, recently planted, in front of the house.
- The fact that many of the landscape improvements required by previous permits have been installed.
- The fact that certain landscape improvements required by previous permits have not been installed, including shrubs, plywood to be installed on the fence for light shielding and wheelstops in the parking lot.
- Trash bags, put out at the curbside, awaiting pick-up two days later.

Public Hearing: October 6, 2005.

At the public hearing, Attorney Matt Massengill presented the petition. Owner, Derek Alfama, was also present. Mr. Massengill made the following comments:

- The Board has viewed the property and is aware of the history of the property.
- The property has improved under the current owner's care.
- Previous permits for the property require that a new owner obtain a new Special Permit upon change of ownership. Mr. Alfama is applying for a Special Permit to continue operation of the two-family house under new ownership.
- There are still some items that need to be installed, in accordance with the most recent Special Permit. These items were noted by the Board at the site visit [and are listed in the site visit report at the beginning of this document]. Mr. Alfama intends to take care of these items as soon as possible.

Ms. Tillona offered praise to the new owner for the improvements to the site and for the improved management of the property.

Ms. Ford inquired about the length of the fence on the west side of the property and whether it was long enough to keep students who are visiting 346 Lincoln Avenue from walking across the adjacent property as they return to the University of Massachusetts. Mr. Massengill and Mr. Alfama stated that the fence is long enough and that there were also shrubs in that location that would discourage people from walking across the adjacent property.

The Board inquired about the new owner's plans for handling trash and recycling. Mr. Alfama stated that the trash hauler (BFI) would be hired by the tenants and would provide a trash can with wheels that would be rolled out to the curb on trash pick-up day. The Board noted that it was important to keep the trash container covered.

Ms. Greenbaum noted that a better solution would be to have the owner contract with the trash hauler, rather than the tenants, so that the owner would have better control over trash removal. She also commented that the owner should consider installing an enclosure of some sort (perhaps a shed) to keep the trash container(s) secure from animals. In addition, she cautioned that the trash container(s) should not be put out at the curb too far in advance of pick-up day.

Bonnie Weeks, Building Commissioner, inquired about the fence along the driveway, which had been broken. Mr. Massengill stated that the fence had been repaired and reinforced with metal posts. Ms. Ford noted that the plywood light shields needed to be installed on the fence as required by previous Special Permits.

There were no comments from the public.

Barbara Ford MOVED to close the evidentiary portion of the public hearing. Hilda Greenbaum SECONDED the motion. The Board VOTED unanimously to close the evidentiary portion of the public hearing.

Public Meeting – Discussion

At the public meeting, the Board discussed the application. The Board noted that conditions at the site had improved under the new ownership. They discussed the conditions of previous permits and stated that those conditions that had not yet been met should be completed by the next planting season (spring of 2006).

Public Meeting – Findings:

Under Zoning Bylaw Section 10.38 the Board found that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood in which it is proposed and is compatible with existing uses in the district because it involves improving the site that was in disrepair and maintaining it in good condition.

10.382 and 10.383 – The proposal would not constitute a nuisance, a substantial inconvenience or a hazard, because there will be a Resident Manager who will maintain close control over the operation of the property; in addition, the Management Plan and the Lease Agreement place strict controls on behavior of tenants; the fencing along the property lines will block headlights from intruding onto neighboring properties; and the number of cars parked on the site will be limited, reducing the number of vehicle trips to and from the site.

10.384 – Adequate and appropriate facilities would be provided because the parking area will be orderly and manageable with only 6 cars parked there and fencing will block the headlights from intruding onto adjacent properties. In addition, the trash container(s) will be kept in an animal-resistant enclosure to prevent trash from being strewn about the property.

10.385 – The proposal reasonably protects the adjoining premises against detrimental or offensive uses on the site because the plywood sheets attached to the fences will block light and sound penetration into adjacent properties. In addition, the presence of a Resident Manager and the enforcement of the provisions of the Lease Agreement will ensure that tenants' behavior does not cause disruption for the neighborhood.

10.386 – The proposal ensures that it is in conformance with the parking regulations of the town because it provides more than two parking spaces per dwelling unit, but limits the number of cars to six, overall, so as not to cause unsafe conditions on the site or disruption for neighbors. In addition, a small sign saying "Resident Parking Only" has been designed and installed to be in keeping with the residential character of the neighborhood and in compliance with Section 8.100 of the Zoning Bylaw which allows signs of up to eight (8) square feet in area in a residential zone.

10.389 – The proposal provides adequate methods of storage for refuse and recyclables because it will provide storage for these items between trash pick-ups in an animal-resistant enclosure.

10.393 – The proposal provides protection of adjacent properties by minimizing the intrusion of lighting because headlights will be blocked by the fences.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw because it protects the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst.

Public Meeting – Zoning Board Decision

Hilda Greenbaum MOVED to approve the application with conditions. Barbara Ford SECONDED the motion.

For all the reasons stated above the Board VOTED unanimously to GRANT a Special Permit, with conditions, pursuant to Condition #10 of ZBA FY 99-0053 and Condition #16 of ZBA FY 2000-00028 and ZBA FY2004-00036, to operate a two-family dwelling, as described in the application of 346 Lincoln Avenue Nominee Trust (Derek Alfama, owner) at 346 Lincoln Avenue, (Map 11A, Parcel 19, R-G Zone).

ZINA TILLONA BARBARA FORD HILDA GREENBAUM
FILED THIS _____ day of _____, 2005 at _____,
in the office of the Amherst Town Clerk _____.
TWENTY-DAY APPEAL period expires, _____ 2005.
NOTICE OF DECISION mailed this _____ day of _____, 2005
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2005,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit, with conditions, pursuant to Condition #10 of ZBA FY 99-0053 and Condition #16 of ZBA FY 2000-00028 and ZBA FY2004-00036, to operate a two-family dwelling, as described in the application of 346 Lincoln Avenue Nominee Trust (Derek Alfama, owner), at 346 Lincoln Avenue, (Map 11A, Parcel 19, R-G Zone).

1. Parking and landscaping shall be as shown on the site/landscape plan approved at the public meeting of October 6, 2005, and on file in the Planning Department, with the "Resident Parking Only" sign located about 15 feet back from the curb, no metal rail on the concrete piers and a plywood headlight shield installed on the fence along the south and the north property lines. Site improvements shall be completed by spring of 2006 and maintained thereafter.
2. A parking permit system, including parking stickers and a sign indicating "Resident Parking Only" shall be implemented and enforced as described in the package of information presented and approved at the public meetings on May 27, 2004, and on October 6, 2005.
3. Tenants shall be limited to parking no more than a total of 6 cars on site on a regular basis.
4. Concrete posts shall be maintained, as installed, at the western end of the driveway, sufficient to obstruct traffic from penetrating into the rear yard area.
5. Two (2) trash bins (or one large trash container supplied by the trash hauler) shall be located as shown on the site/landscape plan approved at the public meeting of October 6, 2005, and on file in the Planning Department, and they shall be enclosed in an animal-resistant enclosure.
6. An evergreen barrier shall be installed and maintained along the west boundary as shown on the site/landscape plan approved on October 6, 2005.
7. No fewer than three staked maple trees, 3" to 4" caliper, shall be planted and maintained, or maintained if currently existing, to restore the Lincoln Avenue streetscape, as shown on the site/landscape plan approved on October 6, 2005. These street trees in the front yard constitute a barrier to discourage parking in the front yard and this barrier shall be maintained.
8. The existing wooden fences shall be maintained in good repair; fencing reinforcement and repair shall be in accordance with the site/landscape plan approved at the public meeting on October 6, 2005, including the plywood headlight shields.

9. Management of the property, including a Resident Manager, shall be as described in the Management Plan and the sample leases submitted with the application and approved on October 6, 2005.
10. The landlord shall maintain a telephone dedicated to the management duties of the Resident Manager, in the Resident Manager's residence. The phone number shall be included on the parking sign at the entry drive. The name and telephone number of the Resident Manager shall also be given to the Police Department and the Building Commissioner'.
11. Fences and plantings shall be installed, continuously maintained and replaced in kind as necessary.
12. Upon change of ownership the new owner shall submit a Management Plan to the Board for approval at a public meeting.

ZINA TILLONA, Chair
Amherst Zoning Board of Appeals

DATE